

## **Remarks**

### **1. Summary of the Office Action**

In the office action mailed January 10, 2008, the Examiner rejected claims 7, 10, 20, and 21 under 35 U.S.C. § 101 as allegedly being directed to non-patentable subject matter. In addition, the Examiner rejected claims 1-6 under 35 U.S.C. § 102(e) as being allegedly anticipated by U.S. Patent Application Pub. No. 2003/0083041 (Kumar), the Examiner rejected claims 7-12 under 35 U.S.C. § 102(e) as being allegedly anticipated by U.S. Patent Application Pub. No. 2003/0128229 (Colson), and the Examiner rejected claims 13-25 under 35 U.S.C. § 102(e) as being allegedly anticipated by U.S. Patent No. 6,987,987 (Vacanti).

### **2. Status of the Claims**

Applicant has amended claims 1 and 4 to more particularly point out and distinctly claim the subject matter of the invention, and Applicant has cancelled claims 7-12 without prejudice. Now pending are claims 1-6 and 13-25, of which claims 1, 4, 13, 16, and 20 are independent and the remainder are dependent.

### **3. Response to § 101 Rejection**

The Examiner rejected claims 7, 10, 20, and 25 as allegedly being directed to non-patentable subject matter, on grounds that the claims cover embodiments directed to software per se. Claims 7 and 10 have been cancelled, so the § 101 rejection of those claims is moot. Nevertheless, Applicant submits that this §101 rejection of claims 7, 10, 20, and 25 is improper and should be withdrawn, because all four of the claims clearly include elements beyond mere software.

Each of claims 7, 10, 20, and 25, for instance, includes the element of a network interface for receiving and sending communications. This element is clearly not mere software. Therefore, the claims include more than mere software.

Because claims 7, 10, 20, and 25 are directed to patentable subject matter, Applicant respectfully requests withdrawal of the § 101 rejection.

#### **4. Response to § 102 Rejections of Claims 1-6**

The Examiner rejected claims 1-6 as being allegedly anticipated by Kumar. Applicant respectfully submits that the rejections of these claims are improper and should be withdrawn, because Kumar does not disclose (expressly or inherently) each and every element of any of these claims.

##### **a. Claims 1-3**

Of these claims, claim 1 is independent. Kumar fails to anticipate claim 1, at a minimum because Kumar fails to teach carrying out the computing, engaging, and sending functions *during transmission of the web request within the communication path from the client station to the content server* as claim 1 recited originally and still recites in its amended form. At best, Kumar merely teaches a wireless communication device (client station) itself estimating a cost based on quantity of data to be communicated, and presenting the estimate to a user of the wireless communication device before proceeding with session initiation. Functions carried out at the wireless communication device, according to Kumar, cannot occur during transmission of the web request within the communication path from the client station to the content server as recited in claim 1. Further, considering the amended language of claim 1, the functions carried out at the wireless communication device, according to Kumar, cannot occur *between the client station and the content server* as in claim 1.

Because Kumar does not teach the combination of elements recited by claim 1, Kumar does not anticipate claim 1. Therefore, Applicant submits that claim 1 is allowable. Further, without conceding the Examiner's other assertions, Applicant submits that claims 2-3 are allowable as well for at least the reason that they depend from allowable claim 1.

**b. Claims 4-6**

Of these claims, claim 4 is independent. Kumar fails to anticipate claim 4, at a minimum because Kumar fails to teach carrying out the computing, engaging, and sending functions *during transmission of the web request within the communication path from the content server to the client station* as claim 4 recited originally and still recites in its amended form. At best, Kumar merely teaches a wireless communication device (client station) itself estimating a cost based on quantity of data to be communicated, and presenting the estimate to a user of the wireless communication device before proceeding with session initiation. Functions carried out at the wireless communication device, according to Kumar, cannot occur during transmission of the web content within the communication path from the content server to the client station as recited in claim 4. Further, considering the amended language of claim 4, the functions carried out at the wireless communication device, according to Kumar, cannot occur *between the content server and the client station* as in claim 4.

Furthermore, in rejecting claim 4, the Examiner did not assert that Kumar teaches the combination of elements recited by claim 4. Rather, in rejecting claim 4, the Examiner appears to have mistakenly examined the elements of *claim 1*. In particular, in rejecting claim 4, the Examiner asserted that Kumar teaches "after receiving the user approval, sending the request along to the content server." However, claim 4 does not recite that element. Rather, claim 4 recites "after receiving the user approval, sending *the web content* along to the client station.

Because Kumar does not teach the combination of elements recited by claim 4, and because the Examiner has not asserted that Kumar does so, the Examiner has not made out proper case of anticipation of claim 4. Therefore, Applicant submits that claim 4 is allowable. Further, without conceding the Examiner's other assertions, Applicant submits that claims 5-6 are allowable as well for at least the reason that they depend from allowable claim 4.

#### **5. Response to § 102 Rejections of Claims 13-25**

The Examiner rejected claims 13-25 as being allegedly anticipated by Vacanti. Applicant respectfully submits that these rejections are improper and should be withdrawn, because Vacanti does not disclose (expressly or inherently) each and every element of any of these claims.

At a minimum, Vacanti does not disclose the combination of elements recited in any of claims 13, 16, and 20, including the function of computing a size-based cost to access the web content and adding an indication of the size-based cost into the web content in conjunction with the hyperlink, such that the indication of the size-based cost will be presented to a user when the web content is presented to the user.

As noted by the Examiner, Vacanti teaches embellishing a hyperlink with an indication of cost to access the referenced web content. However, Vacanti does not teach embellishing the hyperlink with a *size-based cost* to access the referenced web content. Therefore, Vacanti does not anticipate claims 13, 16, and 20. Accordingly, Applicant submits that claims 13, 16, and 20 are allowable. Further, without conceding the Examiner's other assertions, Applicant submits that claims 14-15, 17-19, and 21-25 are allowable as well for at least the reason that they each depend from one of allowable claims 13, 16, and 20.

**6. Conclusion**

For the foregoing reasons, Applicant submits that all of the pending claims are in condition for allowance, and Applicant thus respectfully requests favorable reconsideration.

Should the Examiner wish to discuss this case with the undersigned, the Examiner is welcome to call the undersigned at (312) 913-2141.

Respectfully submitted,

**MCDONNELL BOEHNEN  
HULBERT & BERGHOFF LLP**

Date: April 10, 2008

By: /Lawrence H. Aaronson/  
Lawrence H. Aaronson  
Reg. No. 35,818